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Part IX—The Congressional Role in Nuclear Arms Control

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REPORT

PREPARED FOR THE

SUBCOMMITTEE ON ARMS CONTROL,
INTERNATIONAL SECURITY AND SCIENCE

OF THE

COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES

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FOREWORD

As chairman of the Committee on Foreign Affairs and its Subcommittee on Arms Control, International Security and Science, I requested the Congressional Research Service (CRS) in August 1984 to conduct a comprehensive study of U.S. nuclear arms control policy.

In accordance with my interest in augmenting congressional participation in nuclear arms control policy issues, the committee and CRS sponsored a series of arms control workshops for Members of Congress. The sessions were based on a comprehensive CRS study entitled "Fundamentals of Nuclear Arms Control."

This chapter of the study is entitled "The Congressional Role in Nuclear Arms Control." It is the ninth in a series of committee prints on the CRS study.

Utilizing this chapter on the Congress and arms control, the Committee on Foreign Affairs conducted an arms control workshop on November 14, 1985. At the workshop, distinguished guest experts John C. Culver and Stanley Heginbotham discussed congressional involvement in arms control, from the ABM Treaty in the 1970's to the debate on the Strategic Defense Initiative in the 1980's. John C. Culver, currently in private law practice, was a U.S. Senator from the State of Iowa in 1975–81. He was also a Member of the House of Representatives from Iowa's second district from 1965 to 1974. Stanley Heginbotham is chief and senior specialist of the Foreign Affairs and National Defense Division, Congressional Research Service. Prior to joining CRS, Dr. Heginbotham was associate professor of political science at Columbia University.

The committee's periodic arms control workshops, which are based on the CRS studies, are designed to provide Members of Congress with a forum in which to explore the impact of nuclear arms control on our country's national security. It is my belief that Congress must be prepared to offer constructive nuclear arms control solutions that are based on an understanding of a number of complex issues. This comprehensive study attempts to make a contribution to that effort.

The views expressed in this committee print are those of the Congressional Research Service and do not necessarily reflect the views of the members of the Committee on Foreign Affairs.

DANTE B. FASCELL,
Chairman, Committee on Foreign Affairs.

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LETTER OF SUBMITTAL

CONGRESSIONAL RESEARCH SERVICE,
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Washington, DC, April 25, 1986.

Hon. DANTE B. FASCELL,
Chairman, Committee on Foreign Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am pleased to submit "The Congressional Role in Nuclear Arms Control," part of the series entitled "The Fundamentals of Nuclear Arms Control," as requested by the committee.

This study examines the methods that Congress has used to influence nuclear arms control policy. It explores the congressional role in nuclear arms control agreements that have been concluded to date and the use of weapons funding decisions to shape policy. Other instruments discussed include reporting requirements, resolutions, and hearings. Finally, the study looks at how competing perspectives on arms control within Congress affect the choice of instruments.

The report was prepared by Ellen C. Collier, Specialist in U.S. Foreign Policy in the Foreign Affairs and National Defense Division. The series is being coordinated by Leneice N. Wu, Specialist in International Relations, under the direction of Stanley J. Heginbotham, Chief.

Sincerely,

JOSEPH E. ROSS,
Director.

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EXECUTIVE SUMMARY

In recent years Congress has progressively increased its influence in nuclear arms control policy by employing decisions on funding weapon systems instead of relying solely on the requirement for Senate or congressional approval of a completed agreement. It has also strengthened its sources of information such as reporting requirements and other traditional tools such as hearings and oversight. Its influence in arms control remains diffused, however, because no consensus exists on arms control and a main function of Congress is to debate publicly the deep differences of opinion that exist and attempt to resolve the differences by compromise and vote.

Significance of Congressional Approval Weakens

The necessity for congressional approval of completed arms control agreements is generally thought to be the chief source of legislative branch influence in arms control. Congress has established that the executive branch must submit for approval either as treaties or as congressional-executive agreements any agreements that reduce or limit U.S. armed forces or armaments. Only the "confidence-building" or hot-line agreements have been concluded as solely executive agreements.

Some observers see this power as a basis for congressional codetermination of arms control policy. Anticipation of congressional action is an important influence during negotiations. Several factors, however, limit the influence Congress is likely to have through its power to veto a completed agreement:

(1) The executive branch has treated several arms control agreements that were not formally approved by Congress, or have expired, as if they were in effect. These include the SALT II, threshold test ban, peaceful nuclear explosions, and SALT I interim agreement.

(2) Most agreements are concluded with little or no congressional participation through observers at the negotiations, although observer groups were appointed for the strategic arms negotiations beginning in 1985. The SALT II agreements indicate that while congressional observers do not assure congressional influence or approval, they do contribute to understanding of the agreements and better legislative-executive relations.

(3) Once agreements have been concluded, the Senate or Congress is under strong pressure to accept them as written and not to amend them in significant ways. All arms control agreements that have been submitted to Congress were approved except for three—the SALT II agreements, the Threshold Test Ban Treaty, and the Peaceful Nuclear Explosions Treaty. In

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these cases, consideration has been postponed at the request of the executive branch for a variety of reasons. In all cases, significant reservations or amendments that might have required renegotiation were strongly discouraged by the executive branch and negotiating partners.

The above limitations indicate that congressional efforts to shape arms control in a positive manner are likely to be more effective if they occur prior to the conclusion of agreements.

Because treaties can be defeated by a one-third minority in the Senate, some observers advocate more use of congressional-executive agreements, that is, international agreements submitted to the entire Congress for approval. They are presumably easier to get through Congress because they require only majority support in both Houses. The method has been used only once for arms control (the SALT I interim agreement) largely because of Senate opposition. The Senate has an interest in having the agreements submitted as treaties, especially since arms control is one of the few important categories in which international agreements are currently completed as treaties.

Nevertheless, a majority in the Senate might on occasion be receptive to a congressional-executive agreement. Meanwhile, the House might expand the practice by insisting on congressional approval of the confidence-building measures being concluded as solely executive agreements.

Congressional Influence Through Strategic Force Structure Decisions

Congress as a whole, but especially the House, has increased its influence on arms control policy by exercising more critical attention to the arms control implications of new weapons in its procurement decisions. Since the late 1960's, administrations have emphasized the importance of new strategic weapons systems not only to increase the military strength of the United States but also to enable them to negotiate from strength or to build a better bargaining position. Since congressional funding is needed for such systems, Congress is also able to use authorizations and appropriations for weapon systems to influence arms control policy.

The ABM debate from 1968 through the early 1970's marked an important benchmark in congressional involvement in arms control. Congressional efforts to reduce funds or limit sites for the ABM system were closely linked to SALT I negotiations that led to the conclusion of the ABM treaty in 1972. Congress denied funds to build a second ABM site around Washington even before the United States and the Soviet Union concluded a protocol to the ABM treaty in 1974 that limited each side to one ABM site each.

Since that time Congress has been conscious of, and has debated extensively the relationship between weapon systems procurement and arms control. Often procurement decisions involving a single system have become central to arms control efforts.

The MX missile has been a major focus since the Carter administration and illustrates that Congress can influence arms control through strategic procurement decisions. In 1983 Congress authorized procurement of 21 MX missiles, but only following conclusion

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of a bargain with the Reagan administration on arms control. A small bicameral group proposed a nuclear "build-down" formula for arms control negotiations and argued the need for U.S. development of single-warhead ICBM's to supplement MX deployment. The Scowcroft Commission helped to formulate and legitimize a resulting congressional-executive bargain that allowed MX deployment to go forward but called for renewed U.S. arms control proposals.

In 1984 Congress postponed a decision on procuring 21 additional MX missiles until after March 1985 and made it clear that eventual procurement would depend in part on the credibility of arms control efforts by the administration and on the Soviet return to the negotiating table.

In March 1985 Congress released the funds after new negotiations were underway and President Reagan argued that without the MX the chances of reaching an equitable agreement with the Soviets would be substantially reduced. The eventual number of MX's to be deployed in silos remains an issue of congressional-executive tension that could again be used by congressional forces as a means of influencing executive branch arms control approaches.

Congress has also used funding legislation to press for an agreement with the Soviet Union on controlling antisatellite weapons (ASAT). In 1983 it prohibited testing an ASAT system against a target in space unless the President certified that the United States was endeavoring to negotiate with the Soviet Union a mutual and verifiable ban on antisatellite weapons. In 1984 it elaborated the certification to include that such testing was fully consistent with the ABM Treaty and it limited the number of tests during fiscal year 1985 to three. The President made the required certification and the ASAT system was tested against an object in space on September 13, 1985, although some Members of Congress complained that the President had circumvented the intent of Congress. Subsequently Congress prohibited the expenditure of any funds for ASAT tests unless the President certified the Soviet Union had conducted such a test after October 1985.

For the future, the Strategic Defense Initiative (SDI) promises to be the focal point of congressional concern. The defense authorization for 1986 authorizes funds for research on the system but states its sense that the funds should not be used in a manner inconsistent with the ABM treaty and requires specific congressional authorization for its deployment.

Reporting Requirements

Congress has continued to use reporting requirements to try to influence arms control policies in recent years. More than 30 reporting requirements relating to arms control in the Arms Control and Disarmament Act, the Atomic Energy Act, and State and Defense Department Authorization Acts are in effect.

Congress has long used reporting requirements to improve its base of information. Increasingly, however, reporting requirements have been designed to try to promote or restrain policies. One method has been to force the administration to study issues and provide reports directed at specific policy perspectives. One such

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report was to determine why the United States should or should not renovate the NATO nuclear deterrent in a way to reduce pressures for early first use of nuclear weapons.[1] Another method has been to provide a handle for further congressional action. An example was the requirement for a Presidential determination and two joint resolutions of approval for release of MX funds in 1985.

Some have complained that reporting requirements are a largely ineffectual but costly substitute for stronger congressional action. Others are concerned that the executive subverts the intent of such requirements to serve its own purposes. Still others contend that Congress does not adequately use reports that do contain useful information, such as the Arms Control Impact Statements.

Other Instruments of Congressional Influence

In its efforts to influence arms control, Congress has also employed many other instruments.

Nominations.—On occasion the Senate has contested or not acted on nominations of persons because of their views on arms control. The nominations of Paul Warnke and Kenneth L. Adelman as Director of the Arms Control and Disarmament Agency each encountered considerable opposition prior to confirmation.

Framework legislation.—The Arms Control and Disarmament Act and the Nuclear Non-Proliferation Act have established goals, guidelines, machinery, and procedures for policymaking and at the same time built in a role for Congress.

Resolutions.—Simple resolutions stating the sense of the House or Senate or concurrent resolutions stating the sense of Congress have provided a vehicle for congressional initiatives and support for the President.

Hearings and public debate.—Closed briefings have provided a method for Members of Congress to keep up to date on current developments in arms control that may be classified. Open hearings and floor debate have helped to stimulate discussion and educate the public as well as Congress. In 1985 the House Foreign Affairs Committee sponsored a series of off-the-record workshops and studies entitled "Fundamentals of Nuclear Arms Control" to enhance congressional knowledge of the basic issues.

Oversight of compliance.—Attention to the observance of arms control agreements has involved Congress in the issues of interpretation of agreements, what constitutes noncompliance, and what action to take in the event of noncompliance.

Letters.—On numerous occasions individual Members of Congress or groups of Members have conveyed their views on arms control to the President or to Soviet leaders.

Competing Perspectives on Arms Control and the Congressional Role

Each of the different instruments that are available to Congress to influence arms control policy can be used for distinctive ends.

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[1] Sec. 1103, Public Law 98-525, approved Oct. 19, 1984.

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Those who are concerned by the prospect of a President giving away too much in negotiations with the Soviets will continue to focus their attention on the congressional approval process. Through hearings, participation in observer groups, and other means, they can signal to the President the boundaries within which he must conclude his agreement if he is to receive congressional support. The President needs to listen and adapt to such messages, especially if they are conveyed to him by a significant part of Congress, because opposition from only a third of the Senate can block approval of an arms control agreement.

Those in Congress who are concerned that the President is not adequately emphasizing arms control, on the other hand, can often use their leverage over strategic weapons procurement to good advantage. They reason that the prospect of the Congress refusing to fund a strategic systems procurement request can lead a President to adopt a more forthcoming approach on arms control. Again, the President may find it prudent to listen to moderates on arms control because a majority holding this view in either House can deny him the weapon systems he sees as essential to national defense or to approaching negotiations from a position of strength.

Members of Congress frequently disagree on the extent to which Congress ought to use its leverage over approval of agreements and funding of weapon systems to influence arms control. Some favor leaving arms control policy to the President, claiming that congressional activism creates perceptions of widespread dissension and thus undermines U.S. negotiating strength. Some set fairly modest goals for a congressional role in arms control such as building public understanding and considering alternatives. Others seek actively to influence the administration to be more (or less) flexible in negotiations with the Soviet Union. Congress ultimately decides among these various approaches by its vote.

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INTRODUCTION

Under the Constitution, the powers and duties relating to foreign policy, defense, and arms control are divided between the President and Congress. The President predominates in arms control policy because he negotiates international agreements, is Commander in Chief of the Armed Forces, and holds the executive power. But Congress shares in making the policy because it is responsible for raising and supporting the armed forces and holds the power of the purse. In addition, the Senate advises and consents on treaties and appointments, and under law agreements to disarm or reduce or limit U.S. armed forces or armaments must be approved as treaties or authorized by legislation.[1]

Congress has a stronger position in arms control than in some other areas of foreign policy because the focus of negotiations is on armed forces and weapons systems, for which Congress provides the appropriations. Even so, many Members of Congress have found it difficult for the legislative branch to influence policy effectively.

The purpose of this paper is to examine the role that Congress has played in arms control in the postwar period and the methods that it has used to influence policy. The paper concentrates on nuclear arms control and does not examine congressional action on control of conventional or chemical and biological weapons.

The first three sections contain charts for reference purposes. Chart 1 shows the congressional participation in the nuclear arms control agreements that have entered into force or are pending on the Senate calendar. Chart 2 relates defense or weapon procurement decisions to arms control negotiations. Chart 3 lists current reporting requirements relating to arms control.

[1] Sec. 33, Arms Control and Disarmament Act (Public Law 87-297), approved Sept. 26, 1961.

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I. CONGRESSIONAL INFLUENCE THROUGH APPROVAL OF ARMS CONTROL AGREEMENTS

The traditional source of congressional power in arms control has been the requirement for Senate or congressional approval of an international agreement. The Constitution requires the advice and consent of the Senate in the making of treaties. The Arms Control and Disarmament Act buttressed this requirement by providing that no action obligating the United States to reduce its armaments could be taken except pursuant to the treaty-making power or unless authorized by further affirmative legislation by Congress.[1]

As the following chart shows, Congress has succeeded on the surface in establishing the principle that important arms control agreements must be either treaties or congressional-executive agreements, that is, executive agreements with congressional approval. Most of the arms control agreements in the post-World War II era have been submitted to the Senate as treaties. The SALT I interim agreement was submitted to Congress for legislative approval. Only the so-called "confidence-building measures," such as the hot line agreement, have been concluded as solely executive agreements without approval from either the Senate or Congress prior to entry into force.[2] Even one of these, the most recent agreement to improve the hot line agreement, received subsequent endorsement by Congress when it authorized funds for the modernization.

The threat of disapproving an agreement remains the trump card held by Congress and obliges negotiators to pay attention to the congressional views. Nevertheless, recent history has indicated several limitations of relying on the approval process as a means of assuring congressional influence on arms control policy.

Anticipation of Congressional Action

From the outset of any arms control negotiations, an administration is aware that the agreement ultimately reached must be acceptable not only to it and the other parties but also to two-thirds of the Senate or a majority of Congress. This awareness provides Congress its major influence during negotiations. Negotiators must anticipate how Congress will react to various proposals, and the

[1] Sec. 33 provides, "* * * That no action shall be taken under this or any other law that will obligate the United States to disarm or to reduce or to limit the Armed Forces or armaments of the United States, except pursuant to the treaty-making power of the president under the Constitution or unless authorized by further affirmative legislation by the Congress of the United States. * * *" Arms Control and Disarmament Act, Public Law 87-297, approved Sept. 26, 1961.

[2] For a discussion of various types of executive agreements, see U.S. Congress. Senate. Committee on Foreign Relations. Treaties and Other International Agreements: The Role of the United States Senate. Committee Print 98-205. June 1984. 318 pp.

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knowledge that Congress must approve an agreement sets parameters on the shape of the agreement.

The threat of not approving an arms control agreement has primarily been useful to those most suspicious of arms control. This was evident during the SALT II negotiations. Former Secretary of State Cyrus Vance wrote how the need to gain the support of the late Senator Henry Jackson was an influence during the Carter administration:

> In addition to * * * strategic considerations, there were important political reasons for trying to achieve deep cuts now, rather than waiting for SALT III. Shortly after we took office, Senator Henry Jackson sent the president a memorandum opposing Vladivostok and calling for deep cuts, especially in heavy missiles, which he continued to regard as the most threatening element of Soviet strategic forces. Jackson would be a major asset in a future ratification debate if he supported the treaty, and a formidable opponent if he opposed it.[3]

Similarly, the Jackson amendment to the joint resolution approving the SALT I interim agreement formed a constant backdrop to the SALT II negotiations. This amendment urged the President "to seek a future treaty that, inter alia, would not limit the United States to levels of intercontinental strategic forces inferior to the limits proposed for the Soviet Union."[4] When the SALT II negotiations began, the "Nixon administration was negotiating under a mandate from Congress—endorsed by the Pentagon—that SALT II must entail identical numerical limits for both sides."[5] The mandate held force because of the possibility that the Senate could reject a treaty that did not abide by it.

One of the lessons of the failure to gain approval of SALT II, one observer wrote, was: "The danger to the president is not from those who think he should have been more forthcoming with the Soviets (they are likely in the end to support his treaty) but from those who think he has been too flexible with the Soviets."[6]

Congressional Observers at Negotiations

Another method of congressional influence on arms control agreements prior to their conclusion is the presence of Members of Congress at the negotiations as advisers or observers. Observer groups enhance congressional information on the negotiations and provide a channel of legislative-executive communication. Administration willingness to have observer groups signifies recognition of a legitimate congressional role in arms control.

On rare occasions congressional observers may influence the substance of negotiations. One observer noted, for example, that during the SALT II talks the insistence of congressional observers for an agreed data base brought about new Soviet acknowledgment of information about Soviet missile silos and tubes and heavy bombers armed with cruise missiles.[7]

Most arms control agreements since the end of World War II have been concluded without any direct congressional voice in the

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[3] Vance, Cyrus. Hard Choices. New York, Simon and Schuster, 1983, p. 51.
[4] Public Law 92-448, approved Sept. 30, 1972.
[5] Talbott, Strobe. Endgame. New York, Harper & Row, 1982, p. 31.
[6] Heginbotham, Stanley J. Constraining SALT II: The Role of the Senate. Congress and United States Foreign Policy: The Javits Years, 1946–1980. State University of New York, Stony Brook, Oct. 25, 1985.
[7] Talbott, Strobe. Endgame, p. 95.

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negotiations through observers or advisers.[8] There are exceptions. Two Senate advisers took part in negotiations on the Antarctic Treaty and congressional advisers attended U.N. meetings on the Peaceful Uses of Outer Space and the Peaceful Uses of the Seabed that led to the two treaties with corresponding names. In June 1977 both the House and Senate designated advisers to the SALT II negotiations at the request of the Carter administration.

More typical were the SALT I ABM Treaty and interim agreement. Until formally submitted, details of the agreements were scarcely known to Congress. In its report on the treaty the Senate Foreign Relations Committee expressed regret that the administration had rejected the suggestion of congressional observers at the negotiations. Nevertheless, apparently at least one Senator, John Sherman Cooper, visited the negotiating site and sentiment increased that more Members of Congress needed to understand arms control problems.[9]

The presence of congressional observers has not necessarily assured ready approval of the completed agreement, nor has their absence prevented approval. The SALT I agreement was approved by the Senate whereas the SALT II agreement met fierce opposition prior to its postponement following the Soviet invasion of Afghanistan.

Nevertheless, both branches apparently have concluded that it is helpful, at least in some circumstances, to invite congressional observers. Upon an initial proposal by Senator Robert Byrd and passage of a Senate resolution requesting it, the Reagan administration indicated a congressional observer group would be welcome at the resumed arms control negotiations with the Soviet Union in 1985. The Senate and House each designated an observer group and various Members have visited the negotiation sites for discussions with the U.S. and Soviet delegations.

The current observer groups appears helpful in several ways: They offer a channel of communication between the two branches and within Congress, being comprised of representatives of both parties, of the leadership, and of several committees including the Foreign Affairs and Foreign Relations and Armed Services Committees; they receive periodic briefings and a weekly summary of the negotiations; and they demonstrate congressional support for the negotiations to the Soviet Union. In sum, in the words of a Senate report, they provide Congress an opportunity for greater involvement "without in any sense assuming the role of participants or negotiators in these talks." [10]

The Take it or Leave it Dilemma

Once an agreement has been concluded and submitted, Congress often has little choice but to accept or reject the agreement essentially as signed or risk being held responsible for its demise. Conse-

[8] See Chart 1 below, Nuclear Arms Control Agreements in Force: Congressional Participation.
[9] Smith, Gerard. Double Talk, the Story of SALT I. New York, University Press of America, 1980, pp. 111-112.
[10] U.S. Congress. Senate. Report of the Senate Arms Control Observer Group Delegation to the Opening of the Arms Control Negotiations with the Soviet Union in Geneva, Switzerland, Mar. 9-12, 1985. Senate Document 99-7, June 20, 1985, p. 2.

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quential changes in a U.S.-Soviet bilateral treaty would likely be unacceptable to the Soviets in the absence of renegotiation of the entire treaty, which might cause it to unravel. Renegotiation of multilateral treaties is even less practical because it could require reconvening a conference of many nations. For these reasons, administrations have discouraged significant changes that might require renegotiation.

Attempted reservations, that is, changes actually altering treaty obligations, are usually defeated within Congress. For example, the Senate rejected several reservations to the Nonproliferation Treaty that were introduced on the floor, such as one stating that any military attack by a nuclear weapons country against another country would be grounds for immediate termination of the treaty.

The Senate does sometimes incorporate into the resolution of ratification understandings relating to U.S. interpretation of the treaty but not altering the obligations or terms of the treaty. Often such understandings are added at the request of the administration.[11] For example, the executive branch recommended the understandings adopted by the Senate that the protocols to the Latin American Nuclear Free Zone treaty do not prohibit granting transit privileges to vessels or aircraft irrespective of cargo.

In a few cases the Senate or Congress has initiated the understandings adopted in approving an arms control agreement. The Senate added a preamble to the resolution of ratification of the Limited Test Ban Treaty requiring advice and consent to any treaty amendments. It added an understanding to the agreement on safeguards with the International Atomic Energy Agency permitting Congress to disapprove by joint resolution additions to the list of facilities eligible for inspection. Finally, amendments to the joint resolution approving the SALT I interim agreement requested the President to seek a future treaty that would not limit the United States to levels of strategic forces inferior to the Soviet Union, urged further talks, and stated that neither the United States nor the Soviet Union should seek unilateral advantage by developing first strike potential.

In a few cases, the Senate has insisted upon certain assurances from the President regarding agreements, but these assurances did not become a formal part of the resolution of ratification. Although President Kennedy as well as the Foreign Relations Committee report had stated the partial test ban treaty would not outlaw the use of nuclear weapons, the Senate insisted upon additional assurances. Senator Russell Long introduced an amendment making Senate approval "subject to the reservation that the treaty does not inhibit the use of nuclear weapons in armed conflict." The amendment was tabled with assurances that the legislative history made the reservation unnecessary when President Kennedy wrote the Senate leadership that " . . . the Treaty in no way limits the authority of the Commander-in-Chief to use nuclear weapons for the defense of the United States and its allies, if a situation should develop requiring such a grave decision. Any decision to use such

[11] See chart 1 below, Nuclear Arms Control Agreements in Force: Congressional Participation.

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weapons would be made by the United States in accordance with its Constitutional processes." [12]

The Senate has not to date attached reservations or adopted amendments to an arms control agreement which would require renegotiation. It is possible, however, that the SALT II treaty could have proved an exception or reversed the trend. The Senate Foreign Relations Committee approved the treaty subject to 20 reservations, understandings, and declarations. These included two reservations that would require Soviet agreements: (1) That the agreed statements and common understandings accompanying the agreements would have the same force as the treaty; and (2) that the statement of Soviet intentions regarding the Backfire bomber was legally binding.[13]

Although the committee rejected a number of reservations and amendments in part on the grounds that they would have required renegotiation of the entire treaty, it is possible such conditions would have been adopted if action by the full Senate had not been indefinitely postponed.

U.S. Observance of Unratified Treaties

Recently the requirement of congressional approval has been circumvented by the observance of treaties that either have not yet been formally approved by the Senate or have expired. These include the SALT I interim agreement, the SALT II treaty, the threshold test ban treaty, and the treaty on peaceful nuclear explosions.

International law obliges signatories of a treaty not to take action to defeat the purpose of a treaty during the interim between signing and entry into force. In the case of the SALT II, threshold test ban, and peaceful nuclear explosions treaties, however, Congress has not only tolerated but approved informal observance after the administration ceased to press for Senate approval. Indeed, in the case of the SALT II treaty, many in Congress have been in the forefront of those urging observance. In 1982 the Senate Foreign Relations Committee reported Senate Joint Resolution 212 expressing support for President Reagan's statement that the United States would refrain from taking actions that might undercut the SALT II agreements as long as the Soviet Union showed equal restraint. A few Senators objected, and the measure was not voted upon by the Senate.

In 1985 Congress expressed its sense that the United States should continue the no-undercut policy through December 31, 1986, to the extent that the Soviet Union refrained from undercutting them and provided the Soviet Union actively pursued arms reduction agreements in the nuclear and space arms negotiations. The provision requested the President to consult with Congress on any change in policy or continuation of the no-undercut policy after December 31, 1986, and required a report by February 1, 1986, on adherence by both sides.[14]

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[12] Congressional Record, v. 109, Sept. 23, 1963, 88th Cong., 1st sess., pp. 17734-17745.
[13] U.S. Congress. Senate. Committee on Foreign Relations. The SALT II Treaty. Report, Nov. 19, 1979. Sen. Exec. Rept. 96-14, pp. 27-78.
[14] Public Law 99-145, Department of Defense Authorization Act.

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The SALT I interim agreement was to remain in force 5 years and was scheduled to expire on October 3, 1977. On July 22, 1977, the Senate Foreign Relations Committee wrote the Department of State that in the opinion of its legal adviser any formal extension would require prior congressional approval. The administration did not formally extend the agreement but Secretary of State Cyrus Vance issued a statement on September 23, 1977, that, in order to maintain the status quo during the SALT II negotiations, the United States declared its intention not to take any action inconsistent with the provisions of the interim agreement provided the Soviet Union exercised similar restraint. The Soviet Union simultaneously issued a similar statement. One observer concluded the SALT I extension had been done by unilateral statements instead of an aide-memoire because a formal document would have required submission to Congress, where "meddlesome amendments" could have been attached.[15]

Senators were divided both on the merits of the extension of the agreement and the need for congressional authorization of such a step. On October 19, 1977, the Senate passed Senate Concurrent Resolution 56 concurring in the September 23 statement provided that nothing be construed to prohibit a weapon system previously or subsequently authorized by Congress. The House did not act on the measure although the House Foreign Affairs Subcommittee on International Security and Scientific Affairs held a hearing on the status of SALT II negotiations in anticipation of the termination of the interim agreement.

In regard to the threshold test ban and peaceful nuclear explosions treaties, both Chambers of Congress have gone on record in favor of them. In 1984 the Defense Authorization Act expressed the sense of the Senate that the President should request consent to ratification at the earliest possible date, with any plans or proposals for supplemental verification procedures the President believed necessary.[16] On February 26, 1986, the House passed House Joint Resolution 3 which stated the President should request the advice and consent of the Senate to the two treaties and propose to the Soviet Union the immediate resumption of talks aimed at a comprehensive test ban treaty.

Differing Institutional Interests of House and Senate

Finally, the requirement for congressional approval of arms control agreements has been weakened by differing institutional interests of the House and Senate as to whether an agreement should be a treaty or a congressional-executive agreement.

The Senate has an institutional interest in requiring that arms control agreements be submitted as treaties for the advice and consent of the Senate. Already the vast majority of international agreements are concluded as executive agreements, and arms control is one of the few important categories remaining in which the predominant practice is to conclude agreements as treaties. Moreover, a minority of one-third plus one finds itself with extraordi-

[15] Talbott, Strobe. Endgame, p. 122.
[16] Public Law 98-525, sec. 1111.

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nary power because the constitutional requirement for a two-thirds majority allows them a treaty veto.

The House, on the other hand, has an institutional interest in having arms control agreements concluded as congressional-executive agreements, that is, executive agreements approved by legislation. The constitutionality of this method, under which the House participates equally with the Senate, has been well-established.[17] It provides a legislative check on the executive's entry into international commitments and allows the majority in each House to be decisive rather than a minority of the Senate. The SALT I interim agreement is the only arms control congressional executive agreement thus far.

In August 1978 the Carter administration suggested that the SALT II agreement might be submitted to the entire Congress as an executive agreement rather than to the Senate as a treaty. Several Senators objected, however, and Majority Leader Robert Byrd sent a letter to President Carter urging him not to do so, stating the treaty "must be sound in every respect and able to withstand the constitutional test of advice and consent."[18] Other Senators hinted that resentment in the Senate at submitting the agreement to the entire Congress might bring defeat of the agreement, and the agreement was submitted as a treaty.

The divergent institutional interests of the two bodies may prevent a united congressional position on procedure for a particular agreement and allow the executive branch to choose whichever form is most to its advantage. Nevertheless, the House and Senate have a mutual interest in assuring that all arms control agreements receive some type of congressional approval. The House in particular might benefit by insisting that confidence-building measures being concluded as solely executive agreements receive legislative approval before entry into force. On occasion a majority in the Senate seeking approval of an agreement opposed by a minority might find it in their interest to permit approval by law rather than the treaty process.

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[17] Treaties and Other International Agreements: The Role of the United States Senate, P. 77.
[18] Trewhitt, Henry L. Executive accord weighted for SALT. Baltimore Sun, Aug. 26, 1978, p. 1.

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CHART 1.—NUCLEAR ARMS CONTROL AGREEMENTS IN FORCE: CONGRESSIONAL PARTICIPATION

Agreement and date of U.S. signature of adherence	Congressional approval	Congressional observers at negotiations	Other congressional participation
Antarctic Treaty December 1, 1959.	Senate consent, August 10, 1960, Vote: 66–21.	2 Senate advisers	
Hot Line Agreement, June 20, 1963.			
Limited Test Ban Treaty, August 5, 1963.	Senate consent,[1] September 24, 1963 Vote: 80–19.		Senate Subcommittee on Disarmament hearing 1956–1958 focused attention on issue; Senate insisted on assurance treaty did not affect use of nuclear weapons; Preparedness Investigations Subcommittee reported it vital to implement safeguards advised by Joint Chiefs.
Outer Space Treaty, January 27, 1967.	Senate consent, April 25, 1967, Vote: 88–0.	Advisers at UN meetings on Peaceful Uses of Outer Space.	Senate insisted on assurances about verification.
Latin American Nuclear Free Zone, Protocol II, April 1, 1968.	Senate consent,[2] April 19, 1971, Vote: 70–0.		
Latin American Nuclear Free Zone Protocol I, May 26, 1972.	Senate consent,[2] November 13, 1981, Vote: 79–0.		
Nuclear Non-proliferation Treaty, July 1, 1968.	Senate consent, March 13, 1969, Vote: 83–15.		Origins include passage of S. Res. 179, May 1966.
Seabed Arms Control Treaty, February 11, 1971.	Senate consent, February 15, 1972, Vote: 83–17.	Advisers at UN meetings on Peaceful Uses on Seabed.	Origins include hearings on 1967 proposal by Senator Pell.
Agreement on measures to reduce risk of unclear war by accident, September 30, 1971.			
Agreement on "Hot line" modernization, September 30, 1971.			
SALT I: ABM Treaty, May 26, 1972.	Senate consent, August 3, 1972, Vote: 88–2.	Sen. For. Rel. report regretted Administration rejected suggestion of congressional observers.	In P.L. 92–436, Sept. 26, 1972, Congress withheld approval of ABM site for National Capital area.
SALT I: Interim Agreement, May 26, 1972.	P.L. 92–448, September 30, 1972 [4].		Jackson amendment requested President to seek future treaty that would not limit U.S. to levels of strategic forces inferior to Soviets. Cranston-Taft amendment urged further talks. Brooke amendment stated U.S. policy that neither U.S. nor Soviet Union should seek unilateral advantage by developing first strike potential.
Agreement on Prevention of Nuclear War, June 22, 1973.			
ABM Protocol, July 3, 1974	Senate consent, November 10, 1975, Vote: 63–15.		Protocol limited U.S. and U.S.S.R. to one ABM site each; Congress had denied funds for second ABM site in 1972 defense authorization.
Evironmental Modification Treaty, May 28, 1977.	Senate consent, November 28, 1979, Vote: 98–0.		House and Senate held hearing on proposal in 1972; Senate adopted resolution in 1973 calling for international agreement.

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CHART 1.—NUCLEAR ARMS CONTROL AGREEMENTS IN FORCE: CONGRESSIONAL PARTICIPATION—Continued

Agreement and date of U.S. signature of adherence	Congressional approval	Congressional observers at negotiations	Other congressional participation
U.S.–Safeguards Agreements, November 18, 1977.	Senate consent,[5] July 2, 1980, Vote: 90–0.	.....	Five understanding added by Senate included right of Congress to disapprove by joint resolution additions to list of facilities eligible for inspection.
Nuclear Material Convention, March 31, 1980 [6].	Senate consent, July 30, 1981, Vote: 98–0.	.....	
	Implementing legislation, P.L. 97–351, October 18, 1982.	.....	
Additional Hotline Modernization Agreement, July 17, 1984.	After entry into force, P.L. 99–85, August 8, 1985, endorsed agreement and authorized necessary equipment.	.....	Several Members of Congress had proposed improvement in 1982. P.L. 97–252 (Defense Auth. 1983) required study of initiatives for controlling nuclear weapons including improved direct communication link for crisis control.

[1] Senate added preamble to resolution of ratification requiring advice and consent of Senate to treaty amendments.
[2] With understandings and declarations proposed by administration.
[3] With understandings proposed by administration.
[4] The House passed H.J. Res. 1227 August 18, 1972, by vote of 329–7; the Senate passed S.J. Res. 24. on September 14, 1972, by a vote of 88–2. The House agreed to the Senate amendment September 25, 1972, by vote of 307–4.
On July 22, 1977 Senate Foreign Relations Committee advised State Department that any formal agreement extending interim agreement would require prior congressional approval. After expiration, United States on September 23, 1977, issued statement declaring intention not to take any action inconsistent with the provisions of agreement as long as Soviet Union exercised similar restraint.
On October 19, 1977, Senate passed S. Con. Res. 56 concurring in September 23 declaration providing nothing be construed to prohibit weapon systems previously or subsequently authorized by Congress; resolution not acted on by House.
[5] With five understandings added by Senate.
[6] Although the United States has completed action on the Nuclear Materials Convention, the Convention has not yet entered into force because the required number of countries have not deposited ratifications.

NUCLEAR ARMS CONTROL AGREEMENTS PENDING ON SENATE CALENDAR

Agreement and date of U.S. signature or adherence	Congressional approval	Congressional observers at negotiations	Other congressional participation
Threshold Test Ban Treaty, July 3, 1974.	Submitted to Senate, July 29, 1976 [1].	.....	SFR held hearings in 1977 and ordered reported but reconsidered. P.L. 98–525, Oct. 19, 1984, stated sense of Senate that President at earliest possible date should request consent to ratification with report of any plans to negotiate supplemental verification procedures and any proposed reservations on verification.
Peaceful Nuclear Explosions Treaty, May 28, 1976.	Submitted to Senate, July 29, 1976.	.....	SFR held hearings in 1977 and ordered reported but reconsidered. P.L. 98–525, Oct. 19, 1984, stated sense of Senate that President at earliest possible date should request consent to ratification with report of any plans to negotiate supplemental verification procedures and any proposed reservations on verification.

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NUCLEAR ARMS CONTROL AGREEMENTS PENDING ON SENATE CALENDAR—Continued

Agreement and date of U.S. signature or adherence	Congressional approval	Congressional observers at negotiations	Other congressional participation
SALT II Treaty, June 18, 1979.	Submitted to Senate, June 22, 1979 [2].	At June 1977 ACDA request, House and Senate designated advisers.	Senators visited Moscow during consideration; SFR reported with amendments November 9, 1979; Senate Armed Services reported; Senate Intelligence Committee reported; floor action postponed; automatically re-referred to committee.

[1] Signed during Ford administration; Carter administration waited to submit with Peaceful Nuclear Explosions Treaty. Although not in force, U.S. and U.S.S.R. informally agreed not to test over 150 kilotons.

[2] Although not in force, President Reagan on May 30, 1982, declared that the United States would continue to refrain from actions that would undercut existing SALT agreements as long as the Soviet Union showed equal restraint. Senate Foreign Relations Committee reported S.J. Res. 212 July 12, 1982, supporting this policy; not voted on by Senate. Sec. 1001 of Department of Defense Authorization Act of 1986 (P.L. 99-145) expressed support of no undercut policy through the end of 1986.

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II. CONGRESSIONAL INFLUENCE THROUGH WEAPONS FUNDING DECISIONS

In recent years defense authorizations and appropriations have emerged as an effective congressional tool for influencing arms control decisions. Since the late 1960's and especially in the 1980's Congress has made certain funding decisions in ways that were explicitly calculated to affect arms control. (See following chart, "Key Congressional Weapons Funding Decisions Relating to Arms Control.")

Debate over the antiballistic missile defense system (ABM) in the late 1960's first sensitized Congress to the potential importance of its weapons funding decisions for arms control. Since that time arms control has been a major factor in the congressional debate over most strategic weapons systems: ABM and MIRV during SALT I negotiations, the B-1 bomber and cruise missiles during SALT II negotiations, and MX, ASAT, Midgetman, and SDI in strategic arms reduction negotiations during the Reagan administration. Several decisions on weapons funding had a direct bearing on arms control negotiations.

Sometimes the overall level of the defense budget has been linked with arms control. In 1979 during Senate consideration of the SALT II treaty, some Senators conditioned their support for the treaty on a commitment by President Carter to a 4.5 percent real growth in defense spending in fiscal years 1981–1985.

Antiballistic Missile (ABM)

ABM systems were the focus of disagreement in Congress between 1968 and 1975. Throughout this period there was an interplay between congressional ABM funding decisions and the SALT I negotiations, with action in each area serving as a backdrop for the other.

Efforts in the Senate to cut funds for the Sentinel ABM system began in 1968 and for the Safeguard ABM system in 1969. Though both moves were defeated at that time, opposition to the systems grew. In 1969 an amendment to restrict Safeguard funds to research and development was defeated by a 51–59 vote.[1] In 1970 amendments to restrict Safeguard funding to two sites were defeated, but in 1971 the Senate Armed Forces Committee restricted deployment to two sites and preparation for two additional sites.

Meanwhile, SALT I negotiations began and led to the May 1972 ABM Treaty and the interim agreement. The ABM Treaty, among other things, limited the United States and the Soviet Union to two ABM sites each.

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[1] Frye, Alton. A Responsible Congress: the Politics of National Security. New York, McGraw Hill, 1975, p. 28.

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In its report on the ABM Treaty, the Senate Foreign Relations Committee said the majority "believes that national restraint in the case of the deployment of the National Capital defense might have a salutary effect upon the Soviet Union and contribute to a similar realization that deployment of a second site is neither necessary nor particularly useful." This view was given teeth in August 1972 when Congress denied funds to build the second ABM site around Washington.

In July 1974 the United States and the Soviet Union signed a protocol to the ABM treaty limiting each side to one ABM site each. The Senate approved the protocol by a 63–15 vote in November 1975. There was little controversy because the United States had already limited itself to one site. Moreover, in December 1974 Congress in the Defense Appropriations Act had called for closing, except for perimeter radar, the ABM site at Grand Forks, ND, the single ABM site it has authorized.

With the approval of the ABM protocol, the ABM disappeared as an issue until it reemerged in 1984 with the question of whether the proposed Strategic Defense Initiative was compatible with the ABM treaty.

Multiple Independently Targetable Reentry Vehicle (MIRV)

Throughout the SALT I negotiations congressional concern was expressed over the proposed deployment of the multiple independently targetable reentry vehicle (MIRV). Plans for such a system, which would allow one missile to carry several warheads, were announced in March 1970.[2] In 1971 Senator Hubert Humphrey proposed placing all funds for MIRV deployment in escrow until the President and Congress jointly determined that Soviet testing and deployment of a MIRV system and other action necessitated testing and deployment by the United States. His amendment to the fiscal year 1972 military procurement authorization was defeated 39–12. Some believe that the amendment, even if passed, would have been too late to stop the 1971 deployment of the first MIRV'ed ICBM, Minutemen III. In this view, the second round of SALT in the Spring of 1970 had been the last chance to negotiate a MIRV ban.[3]

B–1 Bomber

Congressional action on funding for the B–1 bomber was highly sensitive to the potential impact of that action on SALT II negotiations. Some argued that failure to fund the system would strengthen the Soviet strategic position at no cost, thereby depriving U.S. negotiators of a bargaining chip that they could use to extract concessions from the Soviets. Others argued that there were better ways than B–1 to meet U.S. security needs.

In 1976 Congress passed an amendment by Senator John Culver to prohibit the obligation of procurement funds for the B–1 bomber prior to February 1, 1977, thus allowing the victor in the 1976 Pres-

[2] Platt, Alan. The U.S. Senate and Strategic Arms Policy, 1969–1977. Boulder, Westview, 1978, p. 14.
[3] Platt, The U.S. Senate and Strategic Arms Policy, p. 18.

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idential election a fresh look.[4] In 1977 President Carter decided to cancel the B–1 program and focus on the air-launched cruise missile to supplement sea-launched and land-based cruise missiles. Congress endorsed his decision. The vote in the House was close, 202–199.[5]

MX Missile

Research and development on a new land-based intercontinental ballistic missile to replace Minuteman took place throughout the 1970s. The Carter administration planned to construct a multiple launch point system, under which the new MX (missile experimental) could be moved around to different launch points so the Soviets would be uncertain where they were at any given time. Whether such a system would be permitted under the SALT II treaty became an issue in debate on ratification. One of the understandings adopted by the Senate Foreign Relations Committee declared the U.S. intention to deploy such a system.

During the 1980's the new MX (missile experimental) became a major defense and arms control issue in Congress. Congress annually provided funds for the MX but attached significant restrictions. In 1981 President Reagan rejected the multiple basing system that had been decided upon by the Carter administration and proposed a "Dense Pack" system instead in which missiles would be closely spaced. In 1982 Congress refused to approve the proposed "Dense Pack" basing mode and prohibited funds for flight testing of MX until after March 1, 1983, and after congressional approval by concurrent resolution of a basing mode. In 1983 Congress adopted the necessary concurrent resolution releasing funds and permitting flight testing and authorized procurement of 21 missiles. In 1984 funds for 21 additional missiles were made subject to joint resolutions of approval after March 1, 1985. In 1985 Congress established a limit of 50 MX missiles in existing Minuteman silos.

Throughout the debates, arms control considerations were major features of arguments used both by those favoring and those opposing moving forward with the MX. Proponents argued that MX deployment would show U.S. determination to stay abreast in strategic weapons, convince the Soviets of the futility and expense of an unrestrained arms race, and serve as a bargaining chip in negotiations. Opponents argued that MX would destabilize the nuclear balance, intensify the arms race, and jeopardize prospects for further strategic arms control agreements.

In 1983, a bipartisan group of six members of the Senate and House explicitly used their influence on an MX funding decision to secure Presidential endorsement of a specific arms control approach. Working closely with the President's Commission on Strategic Forces (the Scowcroft Commission) the group commited itself to support of the MX missile in return for administration commitment to develop a small, single-warhead missile (Midgetman) and

[4] The provision, passed by the Senate, was deleted in conference on the authorizations bill, but restored in the appropriation act. Department of Defense Appropriation Act, 1977. Public Law 94–419, approved Sept. 22, 1976.

[5] Department of Defense Appropriation Act, Public Law 95–111. See U.S. Congress. House. Committee on Foreign Affairs. Congress and Foreign Policy 1977, p. 63.

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propose to the Soviets a new strategic arms control proposal that would include major reductions in nuclear systems by a formula known popularly as "build-down".[6]

Congress did provide funding for the MX, and on October 4, 1983, President Reagan made a new proposal for the strategic arms reduction talks (START) that incorporated the build-down formula to reduce numbers of ballistic missile warheads on both sides. Disagreement persists as to the seriousness and effectiveness with which the proposal was presented. In any case, the effort was preempted by the Soviet walkout of the negotiations in early 1984 following deployment of Pershing II missiles in Europe.

Debate turned to the possibility of using MX funding as leverage to improve prospects for future negotiations. During 1984 some argued that restrictions should be attached to the future procurement of additional missiles to encourage the administration to pursue arms control. Others argued that terminating the MX program would reward the Soviets for walking out of the START negotiations but that a decision to procure additional missiles should be delayed to induce the Soviets to return to the negotiations. Still others argued that this approach would allow the Soviets to determine the fate of the missile. Under a compromise reached at the end of 1984, Congress authorized $1 billion to continue production of the 21 missiles previously authorized, and $1.5 billion for the procurement of 21 additional MX missiles. The new missiles could only move forward if, after March 1, 1985, the President submitted a report stating among other things that the additional missiles were compatible with arms control and Congress passed two joint resolutions to release the funds.[7]

The United States and the Soviet Union subsequently agreed to start new arms control talks on March 12, 1985, and on March 4, 1985, President Reagan submitted the required report in which he stated: "Without the Peacekeeper [MX] our chances of reaching an equitable agreement with the Soviet Union to reduce significantly the size of our nuclear arsenals are substantially lowered." Later in the month Congress passed by a close vote the two necessary joint resolutions to release the funds.[8]

The debate on the missile continued with consideration of the 1986 defense authorizations and appropriations. The Defense Authorization Act capped deployment at 50 MX missiles in existing Minuteman silos, plus additional missiles for the testing program.[9] Funds were authorized and appropriated for only 12 MX missiles during the year.[10]

Antisatellite Weapons (ASAT)

Since 1983 Congress also has sought to influence policy by limiting antisatellite weapons (ASAT) through defense authorizations and appropriations. In 1983 Congress made ASAT funds conditional

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[6] For fuller discussion see Gray, Robert. Congress, Arms Control, and Weapons Modernization. In U.S. Congress. House. Committee on Foreign Affairs. Congress and Foreign Policy, 1983, pp. 86–109.

[7] Gray, Robert. Congress, MX, and Arms Control. In Congress and Foreign Policy, 1984, p. 66.

[8] Public Law 99–17 and Public Law 99–18, approved Apr. 4, 1985.

[9] Public Law 99–145, approved Nov. 8, 1985.

[10] Public Law 99–190, approved Dec. 19, 1985.

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on the submission of a report on the prospects for ASAT arms control. It also prohibited testing the F-15 launched ASAT system against a target in space unless the President certified that the United States was endeavoring to negotiate with the Soviet Union a mutual and verifiable ban on antisatellite weapons and that pending such an agreement testing was necessary to avert clear harm to the national security.

In 1984 Congress expanded the required certification to include that such testing would not constitute an irreversible step that would impair prospects for negotiations on antisatellite weapons and that such testing is fully consistent with the ABM Treaty of 1972. It also limited to three the number of tests against objects in space in fiscal 1985.[11]

In 1985 Congress continued the requirement for a Presidential certification regarding negotiations and again established a ceiling of three ASAT tests for fiscal year 1986.[12] While Congress was in recess, on August 20, 1985, President Reagan, apparently in order to permit a test prior to the summit conference scheduled for November, certified that testing could constitute an incentive to the Soviet Union to reach agreements on a wide range of issues and thus would not impair negotiations.[13]

On September 10, 1985, four House Members and the Union of Concerned Scientists filed suit in the United States District Court asking for a temporary restraining order or preliminary injunction forbidding the Defense Department to conduct the first ASAT test scheduled for September 13.[14] The motion was refused by District Court Judge Norma Johnson partly on the grounds it was a political question between the legislative and executive branches.[15] On September 12 during consideration of the Immigration Reform and Control Act of 1985 (S. 1200), an amendment was offered to prohibit the test until after the summit conference scheduled for November 19, 1985. The amendment was tabled by a vote of 62-34. The ASAT test was conducted as scheduled.

Subsequently, in action on the Defense appropriations, Congress prohibited the expenditure of any funds for tests of an anti-satellite weapon against an object in space unless the President certified that the Soviet Union conducted such a test after October 3, 1985.[16]

Strategic Defense Initiative (SDI)

Closely related to antisatellite weapons is the Strategic Defense Initiative, a proposal made by President Reagan in March 1983 to build a defense against strategic nuclear missiles. The SDI had arms control implications because the Soviet Union contended that it would bring a new, more dangerous round to the arms race and that without an agreement to prevent an arms race in space, it

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[11] Continuing appropriations resolution for fiscal year 1985, Public Law 98-473, approved Oct. 12, 1984.
[12] Public Law 99-145, approved Nov. 8, 1985.
[13] Congressional Record, Sept. 4, 1985, p. H. 7248.
[14] Members were Representatives George E. Brown Jr., Joe Moakley, John F. Seiberling, and Matthew F. McHugh. New York Times, Sept. 11, 1985, p. A4.
[15] New York Times, Sept. 13, 1985, p. A8.
[16] Sec. 8097, Defense Appropriations Act, Public Law 99-190, approved Dec. 19, 1985.

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would not be possible to reach an agreement on the limitation and reduction of nuclear weapons either.[17] In addition, many contended the SDI would violate the ABM treaty.

In 1984 in the Defense Authorization Act Congress required a report each year from fiscal year 1986 through fiscal year 1990 on the definition and details of the programs constituting the Strategic Defense Initiative, the status of consultation with the allies on it, and a statement of any anticipated impact on the antiballistic missile treaty.

In 1985 Congress authorized and appropriated $2.75 billion for SDI, but required specific congressional authorization for its deployment and stated its sense that SDI funds should not be used in a manner inconsistent with existing arms control treaties including the ABM treaty.[18]

CHART 2.—KEY CONGRESSIONAL WEAPONS FUNDING DECISIONS RELATING TO ARMS CONTROL SINCE 1968

Year	Weapons system	Congressional action	Arms control negotiations
1968	Sentinel anti-ballistic missile (ABM) system.	Efforts in Congress to cut funds defeated but opposition grew; amendment to delete funds received 17 votes, April 18, 1968; amendment to delay start on construction defeated 52–34, June 25, 1968.	On July 1, 1968 President Johnson announced Soviets had agreed to strategic arms talks, but talks indefinitely postponed after Soviet invasion of Czechoslovakia in August 1968.
1969	Safeguard ABM system [1]	Amendment to restrict Safeguard funds to research and development defeated in 51–49 vote August 6; amendment to authorize radar and tests but restrict deployment defeated 70–27 August 7, 1969.	On January 20, 1969, when President Nixon took office, Soviets announced willingness for talks. First session of SALT I, Nov. 17–Dec. 22, 1969.
1970	Safeguard ABM system.....	Senate amendments restricting Safeguard funding to two sites defeated.	
	Multiple independently targetable reentry vehicles (MIRVs).	S. Res. 211, passed by Senate 72–6 Apr. 9, 1970; as introduced proposed suspension of testing of MIRVs; as passed proposed mutual suspension of deployment of all nuclear strategic systems subject to verification.	Second session SALT I, Apr. 16–Aug. 14, 1970. Third session SALT I, Nov. 2–Dec. 18, 1970.
1971	Safeguard ABM system.....	Senate Armed Forces Comm. restricted ABM deployment to two sites and advance preparation for two additional sites.	Fourth session SALT I, Mar. 15–May 28, 1971. Fifth session SALT I, July 8–Sept. 24, 1971.
1972	Safeguard ABM system.....	Senate approved ABM Treaty, Aug. 3, 1972...	Sixth session SALT I, Nov. 15, 1971–Feb. 4, 1972.
		Interim agreement approved by P.L. 92–448, Sept. 30, 1972.	SALT I ABM Treaty limiting U.S. and U.S.S.R. to two ABM sites each and interim agreement freezing number of strategic missile launchers concluded May 26, 1972.
		Defense procurement authorization act denied funds to build second ABM site around Washington (P.L. 92–436).	
1973	.....	.....	.....

[17] An Interview with Gorbachev. Time, Sept. 9, 1985, p.22

[18] Sec. 221–226, Department of Defense Authorization Act, 1986, Public Law 99–145, approved Nov. 8, 1985, and Defense Appropriation Act, Public Law 99–190, approved Dec. 19, 1985.

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CHART 2.—KEY CONGRESSIONAL WEAPONS FUNDING DECISIONS RELATING TO ARMS CONTROL SINCE 1968—Continued

Year	Weapons system	Congressional action	Arms control negotiations
1974	Safeguard ABM system	Defense Appropriation Act (P.L. 94–212) passed in Dec. 1974 called for closing of sole ABM site at Grand Forks, N. Dak. by end of fiscal 1976 except for perimeter acquisition radar.	At Moscow summit, July 3, 1974, ABM protocol concluded limiting U.S. and U.S.S.R. to one ABM site each. Vladivostok accords set principles for further limitations on strategic weapons, Nov. 24, 1974.
1975	Safeguard ABM system	Senate approved ABM protocol, Nov. 10, 1975.	SALT II talks, Jan. 28–Feb. 13, Mar. 24–May 6, Sept. 22–Oct. 29, 1975.
1976	B–1 bomber	Defense appropriation limited obligation of procurement funds for B–1 bomber prior to Feb. 1, 1977.	SALT II talks, Mar. 29–May 5, Sept. 27–Oct. 28, 1976.
1977	B–1 bomber, cruise missile	Congress endorsed President Carter's decision to cancel B–1 bomber production and add funds for development of cruise missiles (P.L. 95–111).	SALT II talks, Mar. 21–June 1, 1977, Sept. 20–Dec. 21, 1977.
1978			
1979	Overall defense budget	Prodefense forces in Congress won commitment from President Carter to 4.5 percent real growth in defense spending in fiscal years 1981–85.	SALT II treaty signed June 18, 1979 and submitted to Senate.
1980	Overall defense budget	Congress approved defense budget $6 billion over amount requested by President Carter, P.L. 96–499, Dec. 5, 1980.	Following Dec. 1979 Soviet invasion of Afghanistan, President Carter requested delay in Senate consideration of SALT II, Jan. 3, 1980.
1981	MX missile	Defense Appropriation Act prohibited funds for superhardening existing silos and called for President Reagan to recommend permanent basing mode for MX by July 1, 1983. P.L. 97–114, December 29, 1981.	
1982	MX missile	Congress refused to endorse administration's "Dense Pack" basing mode and prohibited funds for flight testing of MX until after March 1, 1983, and congressional approval of basing mode.	Strategic arms reduction talks (START) began June 1982.
1983	MX missile	Congress released 1983 funds for MX and ended prohibition on flight testing, S. Con. Res. 26, May 13, 1983, and authorized procurement of 21 missiles; bargain included administration commitment to incorporate build-down in U.S. START proposal and linked deployment of MX to development of smaller missile Midgetman.	U.S. arms control proposal included build-down, Oct. 4, 1983. Soviets left START talks Dec. 8, 1983.
	ASAT	Defense Authorization Act (P.L. 98–94) prohibited testing F–15 launched ASAT system against space target unless President certified U.S. is endeavoring to negotiate a mutual and verifiable ban on antisatellite weapons and set limit of two successful tests.	
1984	MX missile	Congress appropriated $1 billion to continue work on 21 previously authorized missiles; funds for 21 additional missiles were made subject to joint resolutions of approval after March 1, 1985.	
	ASAT	P.L. 98–473 prohibited testing ASAT unless President certified U.S. was endeavoring to negotiate agreement; provided for 3 ASAT tests against an object in outer space, but not until after March 1, 1985.	

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CHART 2.--KEY CONGRESSIONAL WEAPONS FUNDING DECISIONS RELATING TO ARMS CONTROL SINCE 1968—Continued

Year	Weapons system	Congressional action	Arms control negotiations
	Strategic Defense Initiative (SDI).	P.L. 98–473 appropriated $1.4 billion for SDI and stated sense that President should consult with Allies on SDI research.	
1985	MX missile	Congress passed P.L. 99–17 and 99–18 to release MX funds. Congress capped MX deployment in Minuteman III silos at 50 and said further deployment would be linked to legislation approving basing mode; authorized and appropriated funds for procurement of 12 MXs in fiscal 1986.	U.S.-Soviet arms control talks resumed March 12, 1985, combining START, INF, and space weapons. First round March 12–April 23, 1985.
	Midgetman missile	Defense authorization (P.L. 99–145) earmarked $724.5 million for small ICBM, adding $100 million to administration request; Defense appropriation reduced amount back to $624.5 million (P.L. 99–190).	
	ASAT	Defense authorization continued requirement for certification regarding negotiations and limited to 3 the number of F–15 based ASAT tests before October 1, 1986; Defense appropriation prohibited tests unless Soviet Union conducted test after October 3, 1985.	U.S. conducted ASAT test Sept. 13, 1983, after President certified endeavors to negotiate.
	Strategic Defense Initiative (SDI).	Authorized and appropriated $2.75 billion for SDI, required specific congressional authorization for SDI deployment, and stated sense that SDI funds should not be used in manner inconsistent with existing arms control treaties including ABM treaty.	President announced Sept. 17, 1985, U.S. would not agree to trade off SDI for deep missile cuts.
		Defense authorization stated sense that U.S. should continue through 1986 to refrain from under cutting existing strategic offensive arms agreements if Soviet Union did and if Soviet Union pursued arms reduction agreements.	Third round arms control talks Sept. 19, 1985– , Summit conference November 19–20, 1985.

[1] Safeguard shifted the focus of the ABM program from protection of cities to protection of missile sites.

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III. CONGRESSIONAL USE OF REPORTING REQUIREMENTS

Congress has increasingly used the device of requiring the executive branch to provide reports on specific topics in its effort to modify or restrain arms control policy. A network of more than 30 reporting requirements relating to arms control has been established primarily in authorization legislation for the Department of Defense, the Atomic Energy Act, and the Arms Control and Disarmament Act. (See chart below.) In 1984 almost all of title XI of the Defense Authorization Act, Matters Relating to Arms Control, was comprised of reporting requirements.

Uses of Reporting Requirements

Required reports usually fall into three categories: (1) Periodic reports; (2) one-time studies; and (3) notifications or determinations due if the executive branch takes or proposes to take certain action. Each category serves a different purpose although they often overlap.

Requirements for periodic (usually annual, semiannual, or quarterly) reports are often directed simply at improving congressional information by specifying data to be submitted to Congress at regular intervals. Such information can then provide a basis for decisions on or oversight of a program. Examples are the requirement for detailed information on the Strategic Defense Initiative at the annual budget presentation or by March 15 of each year, or for the annual report on compliance with arms control by the United States or other nations due by January 31 of each year. While some reports may be classified for security purposes, usually the reports are public, or an unclassified version is also sent, so that they provide a source of information for the public as well as Congress.

Requirements for one-time reports are usually directed at forcing study of specific issues or encouraging certain approaches. For example, Congress tried to assure that the executive branch gave serious study to the nuclear winter theory by requiring a report by March 1, 1985, on the environmental impact of nuclear war and consequences for U.S. policy, and then an additional report on the subject by March 1, 1986. It required a report by January 1, 1986, on measures to help prevent a crisis from resulting in the use of nuclear weapons.

Requirements for notifications, determinations, or certifications have been used to try to assure that Congress would know about certain actions before or soon after their occurrence so Congress would have at least a possibility of challenging, modifying, or preventing administration action. Such provisions provide more flexibility than flat prohibitions. An example is the requirement that a proposed agreement for nuclear cooperation with any other country, together with a Presidential determination that the agreement

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will promote U.S. security, be transmitted to Congress 60 days prior to such an agreement taking effect. Another example is the requirement for a Presidential certification that the Soviet Union has conducted an antisatellite test after October 3, 1985, before the United States may conduct another test of an antisatellite weapon against an object in space.

Problems in Reporting Requirements

While increasing the information available to Congress, reporting requirements have also presented some problems. Many observers complain about the number or redundancy of requirements and the time consumed in preparing reports that are not effectively used. Arms control advocates have sometimes complained that Congress passed reporting requirements instead of taking more vigorous action such as mandating or prohibiting specified actions. Other recurring problems have been the timeliness and quality of the reports submitted and lack of use of the reports once they have been submitted.[1]

The Arms Control Impact Statements illustrate both the uses and problems of required reports. Section 36 of the Arms Control and Disarmament Act, added in 1975, requires that any request submitted to Congress for authorizations or appropriations for certain weapon systems be accompanied by a statement analyzing its impact on arms control. Statements are required for programs involving nuclear weapons, or with an overall cost of $250 million or an annual cost of $50 million, or technology with potential military significance that could have a significant impact on arms control policy or negotiations.

The purpose of the Arms Control Impact Statements is not only to provide Congress necessary information but also to promote communication between the Department of Defense and the Arms Control and Disarmament Agency (ACDA), which is responsible for preparing the reports, and to give ACDA early access to national security policymaking.[2]

The first set of impact statements submitted in August 1976 were severely criticized by the House Foreign Affairs and Senate Foreign Relations Committees as shallow, not analytical, and not dealing with impact on policy. After an intensive monitoring effort by both committees, however, and with the active cooperation and support of Paul Warnke, then Director of ACDA, the statements improved measurably and by 1982 the chairman of the two committees called them "well written, informative, and sufficiently analytical to provide useful insights into the arms control implications of major weapons programs as was envisioned by the Congress in 1975." [3] The statements are published annually by the two commit-

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[1] U.S. Congress. House and Sneate. Committees on Foreign Affairs and Foreign Relations. Required Reports to Congress in the Foreign Affairs Field. Joint Committee Print, Apr. 22, 1973. Study now being updated by Congressional Research Service.

[2] Berdes, George. Congress' New Leverage. The Center Magazine, July/August 1976, pp. 76-80.

[3] U.S. Congress. House. Committee on Foreign Affairs. Senate. Committee on Foreign Relations. Fiscal Year 1982 Arms Control Impact Statements. Joint committee print. May 1980. 522 pp.

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tees and they provide a large amount of information not available elsewhere in a single, convenient source.

Nevertheless, many people who have watched the evolution of the impact statement presentations over the years question whether they are adequately used by Congress. They are seldom mentioned in debates on arms and arms control issues. Contentious issues that have been raised in the statements have not provoked protests or debates. For example, the impact statement for 1983 mentioned several potential developments that might require amending the ABM treaty, but little congressional concern was expressed until after the Strategic Defense Initiative became an issue in 1984. Moreover, some ACDA officials have complained that instead of improving cooperation their preparation of the statements has antagonized the Department of Defense.[4] Others argue that the quality varies according to the ACDA leadership and that the 1987 statements have slipped backward toward being less useful.

The difficulty of exercising control through certification requirements is illustrated by the September 1985 test of the antisatellite weapon. Congress prohibited funds for testing against an object in space an antisatellite warhead launched from an F-15 aircraft until 15 days after the President made a specified certification to Congress. The certification was required to include: [5]

(1) That the United States is endeavoring to negotiate with the Soviet Union a mutual and verifiable agreement setting limits on antisatellite weapons consistent with national security;

(2) That, pending such agreement, testing is necessary to avert clear and irrevocable harm to the national security;

(3) That such testing would not constitute an irreversible step imparing prospects for negotiations on antisatellite weapons; and

(4) That such testing is fully consistent with the rights and obligations of the United States under the Anti-Ballistic Missile Treaty of 1972.

On August 20, 1985, President Reagan submitted a certification and the testing took place on September 13, 1985. Some Members of Congress complained that the President's report avoided the intent of Congress because it took the position that no ASAT arms control agreement was in the national interest and therefore there was no obligation to negotiate one, but the administration would continue to study possible limitations. Subsequently Congress prohibited any further ASAT tests unless the President certified that the Soviet Union had conducted such a test after October 1985.

Even when further congressional action is necessary for action after a required report or certification has been submitted, Congress has usually supported the President on arms control and weapons funding decisions, as in the case of required votes on the MX missile in 1984 and 1985.

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[4] U.S. Congress. House. Committee on Foreign Affairs. Executive-Legislative Consultation on Foreign Policy: Strengthening the Legislative Side. Committee Print, April 1982, p. 53.

[5] Sec. 8100, Public Law 98-473 (Continuing Appropriations Resolution) approved Oct. 12, 1984, and Sec. 205, Department of Defense Authorization Act, Public Law 98-525, appoved Oct. 19, 1984.

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The *Chadha* decision of 1983 finding the legislative veto unconstitutional effectively voided a number of provisions that gave Congress a simplified method to prevent or halt a Presidential action when it felt that the reports or notifications called for it.[6] Many provisions requiring prior notification of actions relating to arms control, particularly in the Atomic Energy Act, contained legislative vetoes. For example, section 129 of the Atomic Energy Act permits a legislative veto by concurrent resolution of a Presidential waiver of a mandatory cutoff of nuclear exports to a country which detonates a nuclear device. In view of the *Chadha* decision, to override a Presidential waiver in this case Congress would be required to pass legislation which presumably would be vetoed by the President, thus requiring a two-thirds majority to override.

Requirements for approval or disapproval of Presidential decisions by joint resolutions are not affected by the *Chadha* decision, and gradually these are replacing legislative veto provisions.

CHART 3.—REQUIRED REPORTS TO CONGRESS RELATING TO ARMS CONTROL

Citation	Content of report required	From whom	To whom	Frequency
	ARMS CONTROL AND DISARMAMENT ACT (PUBLIC LAW 87-297) AS AMENDED			
Sec. 36(b)(2)	Arms control impact statements for certain defense, technology, and nuclear programs (intended primarily for nuclear weapons or with total cost in excess of $250 million or annual cost in excess of $50 million or with significant arms control impact).	Director, ACDA	Congress	With any request for authorization or appropriation (FY86 report sumitted 2/15/85).
Sec. 36(b)(3)	Advice on arms control implications of any program on which report has been submitted under Sec. 36(b)(2).	Director, ACDA	Requesting committee.	Upon request.
Sec. 37 (Sense of Congress provision).	Verification data including (1) Degree to which arms control proposal of U.S. or foreign government could be verified by national means; (2) In case of agreement in force any degradation or alteration in U.S. capacity to verify; (3) Number of professional personnel assigned to arms control verification on full time basis by each agency; (4) Amount and percentage of research funds expended by ACDA for analysis of verification issues.	Director	Congress	On a timely basis or on request of appropriate committee.
Sec. 47(b)	Nature and effect of proposed transfer of activities or facilities of any Government agency which relates primarily to arms control.	President	Congress	Sixty days prior to transfer.
Sec. 50	Activities of ACDA, including goals, negotiations, appraisal of prospects of negotiations and arms control measures in effect.	Director	Congress	Jan. 31 of each year (1985 report submitted 2/3/86).

[6] 103 S. Ct. 2764 (1983). A legislative veto is a provision permitting Congress to approve or disapprove executive branch actions without full legislative action, for example by a simple or concurrent resolution that is not presented to the President for signature.

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CHART 3.—REQUIRED REPORTS TO CONGRESS RELATING TO ARMS CONTROL—Continued

Citation	Content of report required	From whom	To whom	Frequency
Sec. 52	Adherence of U.S. to arms control obligations and compliance of other nations, including agencies and programs, questions raised, and assessment.	President, prepared by ACDA Dir. with Secretaries of State, Defense, Energy, Ch. Joint Chiefs, CIA Director.	Speaker, Sen. For. Rel. Ch.	Jan. 31 of each year (Submitted 2/3/86).
FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1986 AND 1987 (PUBLIC LAW 99–93)				
Sec. 705 (Sense of Congress).	Feasibility of permanent structure in Geneva for arms control negotiating teams.	Secretary of State	Congress	In 1985 supplemental appropriation process.
Sec. 706	Measures to reduce likelihood of nuclear weapons use by contributing to crisis stability including (1) increased redundancy of direct communications link circuits; (2) survivable direct communications links; (3) "non-target" sanctuaries; (4) creation of standard operating procedures for communicating with Soviets; (5) prohibition on "locking on" of fire control radars on ships and planes; (6) unmanned launch sensors in land-based missile fields; (7) anti-submarine operations free zones; (8) permissive action links on submarines; (9) training programs for National Command Authority officials; (10) relocation of officials to secure location outside Washington.			
	Evaluation of above study	Sec. of State and ACDA Director.	Armed Services, For. Rel., For. Aff.	Jan. 1, 1986 (Submitted 4/22/86).
ATOMIC ENERGY ACT OF 1954 (PUBLIC LAW 83–703) AS AMENDED				
Sec. 54	Proposed foreign distribution of special nuclear material.	Nuclear Regulatory Commission.	Congress	60 days prior notification.
Sec. 123(a)	Proposed agreement for nuclear cooperation and Presidential determination that it will promote U.S. security and not constitute unreasonable risk.	President	Congress	60 days prior notification. (China, 12/30/85).
Sec. 126	Submission of explanation why, after the NRC has not issued an export license because it was unable to make statutory determination necessary, license to be issued nevertheless.	President	Congress	60 days prior notification.
Sec. 128	Submission or first export license or authorization to state President has determined issuance is necessary despite failure of state to meet export criteria.	President	Congress	60 days prior notification.
Sec. 129	Determination that cessation of nuclear exports due to violations of agreement would prejudice achievement of U.S. nonproliferation objectives.	President	Sen. For. Rel.; House For. Aff.	60 days prior determination.

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CHART 3.—REQUIRED REPORTS TO CONGRESS RELATING TO ARMS CONTROL—Continued

Citation	Content of report required	From whom	To whom	Frequency
	NUCLEAR NON-PROLIFERATION ACT OF 1978 (PUBLIC LAW 95-242) AS AMENDED			
Sec. 601	Review of activities relating to non-proliferation.	President	Congress	Annually in January.
	DEPARTMENT OF DEFENSE AUTHORIZATION ACT OF 1985 (PUBLIC LAW 98-525)			
Sec. 110	(1) Statement that further acquisition of MX missiles is in national security interest; (2) Findings concerning effect of deployment of additional MX missiles on vulnerability of U.S. landbased ICBMs; (3) basing mode for MX and small missiles; (4) assessment.	President	Congress	March 1, 1986. (Submitted 3/4/85).
Sec. 205	Certification that (1) U.S. is endeavoring to negotiate a mutual and verifiable agreement with Soviet Union on anti-satellite (ASAT) weapons; that ASAT testing is (2) necessary; (3) would not be irreversible step impairing prospects for ASAT negotiations; and (4) is consistent with ABM treaty.	President	Congress	15 days prior to ASAT test (Submitted 8/20/85).
Sec. 1101	Survivability of U.S. strategic nuclear ballistic missile submarine fleet, including (1) plans based on vulnerability of such force and (2) enhancing survivability through measures that would affect anti-submarine warfare including rules of engagement.	Secretary of Defense	Armed Services Committees.	April 1, 1986 (submitted 4/16/85).
Sec. 1102	Programs that constitute the Strategic Defense Initiative including (1) details of programs; (2) objectives; (3) relation between each objective and program; (4) status of consultations with allies; (5) anticipated impact on ABM Treaty; (6) process by which Congress could review Soviet countermeasures; (7) details of funding of programs.	Secretary of Defense	Armed Services, Foreign Affairs, Foreign Relations Committees.	At annual budget presentation or by March 15 (1986 report submitted March 1985).
Sec. 1103	Reasons why U.S. should or should not renovate NATO nuclear deterrent in way to reduce pressures for early first use of tactical nuclear weapons including discussion of (1) short-range battlefield nuclear weapons; (2) launchers permitting coverage of Warsaw Pact territory; (3) dual-capable nuclear/conventional weapons; (4) concentrating all tactical nuclear weapons in single command.	President	Congress	Jan. 19, 1985 (Submitted 2/2/85).
Sec. 1104	Net reduction of tactical nuclear weapons in Europe including (1) types to be withdrawn and (2) resulting changes in force structure.	President	Congress	By 90 days after decision regarding reduction.

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CHART 3.—REQUIRED REPORTS TO CONGRESS RELATING TO ARMS CONTROL—Continued

Citation	Content of report required	From whom	To whom	Frequency
Sec. 1105	Required strategic counterforce capability consistent with existing U.S. policy, taking into consideration U.S. ICBMs having accuracy on order of the MX intended to be procured, including (1) definition of what U.S. counterforce capability would constitute a "first-strike capability" and (2) assessment of corresponding Soviet capabilities.	President	Congress	April 15, 1985 (Submitted 7/9/85).
Sec. 1106(a)	Report by General Advisory Committee on Soviet compliance with arms control commitments.	President	Congress	30 days after enactment (Submitted 10/10/84).
Sec. 1106(b)	Unclassified version of report on Soviet compliance.	President	Congress	60 days (Submitted 2/1/85).
Sec. 1107	Nuclear winter report; environmental impact of nuclear war and consequences for U.S. strategic, arms control, and civil defense policy, including (1) review and assessment of current scientific studies; (2) evaluation of implications; (3) manner in which evaluation will be integrated into policies; and (4) extent to which current findings are being studied and used in Soviet Union.	Secretary of Defense	Armed Services Committees.	March 1, 1985 (Submitted 3/85).
Sec. 1109 (Sense of Congress).	Verification requirements necessary to determine compliance with 1972 Biological and Toxin Weapons Convention.	President	Foreign Affairs, Foreign Relations, Intelligence Committees.	March 15, 1985 (Submitted 6/5/85).
Sec. 1110 (Sense of Congress).	Soviet adherence to no-undercut of SALT agreements policy including (A) implication of U.S.S. Alaska's sea trials, both with and without dismantling of older MIRVed missiles; (B) assessment of Soviet responses to termination of U.S. no-undercut policy; (C) Soviet activities on existing strategic arms agreements; (D) recommendations on future U.S. restraint policy.	President	Congress	Feb. 15, 1985 (Submitted 6/10/85); Consult with Congress prior to policy change.
Sec. 1111 (Sense of Congress).	Plans President may have to negotiate supplemental verification procedures for test ban treaties (TTB and PNE) and recommendations for any reservations of understanding on verification.	President	Senate	With request for consent to treaties.
Sec. 1512	Use of funds for design or procurement of more than 100 B–1B bomber Aircraft.	Secretary of Defense	Armed Services Committees.	Prior notification.
	DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1986 (PUBLIC LAW 99–145)			
Sec. 222	Certification that Strategic Defense Initiative System is survivable and cost effective.	President	Congress	Prior to deployment.

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CHART 3.—REQUIRED REPORTS TO CONGRESS RELATING TO ARMS CONTROL—Continued

Citation	Content of report required	From whom	To whom	Frequency
Sec. 223	(a) Probable responses from potential enemies to procurement and deployment of Strategic Defense Initiative; degree of dependency of success on potential enemy's antisatellite capability; and cost estimates (b) procurement and deployment costs.	Secretary of Defense..	Congress	With budget request for FY87.
Sec. 226	Report on strategic and theater ballistic missiles defenses.	Secretary of Defense..	Congress	Feb. 15, 1985.
Sec. 1001(b)	Compliance with existing SALT agreements including (1) Projections and comparisons of dismantlements required in next five years for compliance; (2) likely inventories over next five years if compliance ended; (3) possible Soviet responses to termination of no undercut policy; recommendations regarding future interim restraint policy.	President	Congress	February 1, 1986.
Sec. 1001(c)	Finding that Soviet Union has violated the provisions of strategic arms agreement and violations threaten U.S. security.	President	Congress	With proposed measures to protect U.S. security.
Sec. 1002	Compliance of Soviet Union with arms control commitments (Classified and unclassified).	President	Congress	December 1, 1985 and by Dec. 1 each subsequent year (Submitted 1/21/86).
Sec. 1003	Interagency study on possible cooperation with Soviet Union in development of capabilities for verification of compliance with arms control agreements (Classified and unclassified).	President	Congress	May 1, 1986.
Sec. 1005	Plan for pilot program for exchange of certain high-ranking military and civilian personnel with Soviet Union.	Secretary of Defense..	Appropriate committees.	Dec. 1, 1985.
Sec. 1006	Nuclear winter findings including assessment and evaluation of implications for nuclear weapons policy, arms control policy; civil defense policy.	Secretary of Defense..	Armed Services	Mar. 1, 1986.
Sec. 1411(b)	Certification that United States has (1) submitted force goal for modernization of chemical deterrent with binary munitions and goal has been adopted by North Atlantic Council; (2) developed plan under which binary chemical munitions can be deployed under appropriate plan to deter attacks and (3) has consulted with NATO members on the plan.	President	Congress	Prior to use of funds to procure binary chemical weapons.
Sec. 1411(c)	Certification that final assembly of binary chemical munitions is necessitated for security and other specified conditions have been met.	President	Congress	After Oct. 1, 1987, prior to final assembly.

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CHART 3.—REQUIRED REPORTS TO CONGRESS RELATING TO ARMS CONTROL—Continued

Citation	Content of report required	From whom	To whom	Frequency
Sec. 1411(d)	Operational requirements of binary chemical bomb, performance of system during testing, and any exceptions to operational criteria deemed acceptable.	President	Congress	60 days prior to procurement of BIGEYE components.
Sec. 1411(g)	Results of NATO consultations concerning chemical deterrent posture with specified information.	President	Congress	Oct. 1, 1986.
	DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1986 (PUBLIC LAW 99-190)			
Sec. 8097	Certification that the Soviet Union has conducted, after October 3, 1985, a test of a dedicated anti-satellite weapon against an object in space.	President	Congress	Prior to conduct of ASAT test.

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IV. OTHER INSTRUMENTS OF CONGRESSIONAL INFLUENCE

Congress has used most of its array of tools to attempt to influence arms control. In addition to those already discussed—approval of agreements, observers at negotiations, authorizations and appropriations for weapons, and reporting requirements—congressional instruments have included approval of nominations, legislation establishing a framework for regulation and control, resolutions, hearings, and oversight.

NOMINATIONS

The Constitution requires Senate advice and consent to the appointment of ambassadors, consuls, other public ministers, and officers of the government.[1] Congress buttressed this requirement with provisions in the Arms Control and Disarmament Act that require Senate confirmation of two Special Representatives for Arms Control and Disarmament Negotiations as well as the six top officials of the U.S. Arms Control and Disarmament Agency and the General Advisory Committee on Arms Control and Disarmament.[2]

As in most areas, the Senate has usually readily approved the President's nominations in the arms control field. In some instances, however, it has used nominations to demonstrate concern.

In 1971 and 1972 President Nixon made four nominations to the General Advisory Committee that the Foreign Relations Committee did not act on. While the committee never issued a formal statement explaining the inaction, Committee Chairman J. William Fulbright later said it had refused to approve the nominations as a matter of principle. One analyst concluded, "The conservative viewpoints of the individuals concerned and their presumably anti-arms control tendencies could have been the grounds for disqualifying them." [3]

In 1977 President Carter's nomination of Paul Warnke as Director of the Arms Control and Disarmament Agency and as chief SALT negotiator provoked considerable controversy. Warnke was perceived by some in Congress as likely to be excessively anxious to conclude an agreement with the Soviets. The Senate took separate votes on the two positions for which Mr. Warnke was nominated instead of considering them together as in past practice. According to one analyst, "The importance of this change was that it allowed those Democratic Senators who were concerned about Warnke's 'toughness' as a negotiator to register their concern without embar-

[1] Article II, sec. II.
[2] Public Law 87-297, as amended, sec. 22-27.
[3] Gellner, Charles. The General Advisory Committee on Arms Control and Disarmament—An Appraisal and Proposals for Change. Senate Foreign Relations Committee Print. September 1982. Washington, U.S. Government Printing Office.

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rassing a new Democratic President." [4] Warnke's nomination as Director of ACDA was confirmed by 70–29 and as chief SALT negotiator by 58–40. His failure to receive a two-thirds majority as negotiator was a clear signal from the Senate that the SALT II agreement he was to negotiate could have difficulty in receiving the necessary advice and consent.

In 1983 the Senate Foreign Relations Committee adversely reported President Reagan's nomination of Kenneth L. Adelman as Director of the Arms Control and Disarmament Agency. In this case, arms control supporters were concerned by the nomination. The Foreign Relations Committee report said, "Mr. Adelman's emphasis on deep reductions and very little else indicates, at best, a narrowly focused view of the potential value of arms control. At worst, it may mean he intends to ally himself with those who would establish impossible standards in negotiations with the anticipation of failure." [5] Senator Henry Jackson in floor debate called Mr. Adelman's views on arms control "basically sensible." [6] Mr. Adelman's nomination was approved by the full Senate by a vote of 57–42.

Framework and Other Legislation

In addition to authorizations and appropriations for weapon systems, Congress has passed other legislation affecting arms control. In particular, the Arms Control and Disarmament Act and the Nuclear Non-Proliferation Act, form frameworks for influencing arms control.

The Arms Control and Disarmament Act of 1961 established the Arms Control and Disarmament Agency, which was to have primary responsibility for arms control policy.[7] Annual or biannual authorizations under this act have frequently provided occasions for stating arms control policy. For example, the authorization passed in 1977 added to the original act section 37 stating the "sense of Congress that adequate verification of compliance should be an indispensable part of any arms control agreement." [8]

The Nuclear Non-Proliferation Act supplemented the Atomic Energy Act of 1954, which already contained numerous provisions relating to the military application and control of atomic energy.[9] The Nuclear Non-Proliferation Act served as a comprehensive statement of U.S. policy to serve as a reliable supplier of nuclear fuels and to prevent nonnuclear nations from acquiring nuclear weapons. It also provided a framework of congressional controls over decisions relating to international nuclear cooperation.

The Foreign Assistance Act has also been used as a vehicle to carry out nonproliferation policy. Section 669, added in 1977, prohibited aid to any country which imported or exported nuclear fuel enrichment equipment unless certain safeguards were met. Section 670, added in 1981, extended the prohibition to countries importing

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[4] Rogers, J. Philip. The Senate and Arms Control: The SALT Experience. In Purvis, Hoyt. Legislating Foreign Policy. Boulder, Westview Press, 1984, p. 169.
[5] U.S. Congress. Senate. Exec. Report No. 98-4. Mar. 14, 1983.
[6] Congressional Record, Apr. 13, 1983, p. S4508.
[7] Public Law 87-297, approved Sept. 26, 1961.
[8] Public Law 95-108, approved Aug. 17, 1977.
[9] Public Law 95-242, approved Mar. 10, 1978.

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or exporting nuclear reprocessing equipment or detonating a nuclear device. Both provisions permitted waivers by the President and a method for Congress to override the waiver.

Sometimes provisions in legislation state the sense of the Congress and have no more binding force than simple or concurrent resolutions, but they do provide vehicles for stating congressional opinion. For example, the State Department Authorization Act passed in 1983 expressed the sense of Congress that the U.S. Government should disapprove the export of any nuclear-related equipment to the Government of India, Argentina, or South Africa until such governments gave stronger nuclear nonproliferation guarantees.[10]

Resolutions

Simple or concurrent resolutions, which do not have the force of law but state the sense of the Congress, have served a variety of purposes. They have been the instrument of congressional initiatives, suggesting new approaches or urging the administration to take new arms control measures. Expressing concern that agreements on control of MIRV'ed vehicles would be more difficult once deployed, Senator Edward Brooke introduced Senate Resolution 211 calling for a mutual suspension of MIRV test flights by the United States and the Soviet Union. As passed by the Senate on April 9, 1970, on a vote of 72-6, the resolution called for the President to propose an immediate mutual suspension of the further deployment of all offensive and defensive strategic nuclear weapons.

The congressional effort to constrain MIRV's has been variously evaluated. One analyst, pointing out that deployment continued, wrote, "Despite the overwhelming margin of the vote, the passage of this legislation had no binding effect and little practical influence on the executive branch."[11] Alton Frye, a key member of Brooke's staff, argues, however: "Never before had the Congress spoken so urgently for such far-reaching strategic arms limitations. The President now enjoyed the broadest reasonable mandate to pursue a negotiated agreement of maximum scope. In realistic political terms the Senate had done about all it could to spur diplomacy."[12]

The value of a resolution in stimulating debate, even when it is not passed, was illustrated by the nuclear freeze resolution. In 1982 the House Foreign Affairs Committee adopted a resolution calling for a nuclear freeze while pursuing reductions but it was defeated on the floor by a resolution calling for reductions first followed by a freeze. The Senate did not vote on the resolution. In 1983 the House again passed a substantially amended nuclear freeze resolution by a vote of 278-149, but the Senate voted to table it. The force behind the resolution, however, was believed by many to have stimulated the Reagan administration to have moved earlier and more vigorously on arms control than they might otherwise have done.[13]

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[10] Sec. 1007, Department of State Authorization Act, Fiscal Years 1984 and 1985. Public Law 98-164, approved Nov. 22, 1983.

[11] Platt, The U.S. and Strategic Arms Policy, p. 15.

[12] Frye, A Responsible Congress, pp. 72-73.

[13] Further discussion on the nuclear freeze resolution is in next section.

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Resolutions have also frequently expressed support for the President's negotiating efforts. Senate Resolution 148, passed in May 1963, called for the negotiation of a limited test ban treaty. Senate Resolution 179, passed on May 17, 1966, commended efforts for a treaty on nonproliferation. Senate Resolution 221 in 1975 called on the President to seek cooperation to strengthen the International Atomic Energy Agency and consult on strengthening safeguards. Senate Resolution 406, agreed to in 1976, stated certain principles which should shape U.S. policy to the Soviet Union; a floor amendment reaffirmed the Jackson amendment and stated that any future SALT agreement should not limit U.S. intercontinental strategic forces to levels inferior to those of the Soviet Union. House Concurrent Resolution 224, passed Nov. 19, 1981, commended President Reagan for initiatives in a speech the previous day calling on the Soviet Union to engage in strategic arms reduction talks.

Finally, countless resolutions have been introduced putting forth individual initiatives. Sometimes these lead to study or begin the process of building a consensus. Two resolutions introduced in 1967 by Senator Pell illustrate this pattern: Senate Resolution 172 relating to the seabed and Senate Resolution 186 relating to control of outer space. The administration opposed them as premature and unrealistic, but the Senate Foreign Relations Committee held hearings on them and the ideas were later embodied in the seabed and space control agreements.

Hearings and Floor Debate

Congressional committees have held numerous closed briefings to keep up to date with arms control negotiations and policy planning in the executive branch. The House Foreign Affairs and Senate Foreign Relations and Armed Services Committees of both Houses have intermittently requested briefings on strategic arms limitation or reduction talks since 1974. Such hearings allow a fuller, franker, and less formal exchange of views than public hearings.

In 1985 the House Foreign Affairs Committee broadened this concept and held a series of off-the-record workshops entitled "Fundamentals of Nuclear Arms Control" open to all Members for the purpose of enhancing congressional understanding of the basic issues. The studies on which the workshops were based, including this one, were subsequently published.

Congress has helped stimulate wider discussion and educate the public as well as itself about arms control issues through public hearings on proposed resolutions or legislation or matters appearing to need study. Extensive hearings held by the Senate Subcommittee on Disarmament from 1955 to 1958 helped pave the way for the nuclear test ban treaty. They brought public discussion of disputed scientific testimony on the health effects of radioactive fallout from nuclear tests and the seismic detection and identification of underground tests.

Hearings have also provided an opportunity to discuss proposals that were at odds with established U.S. policy. In 1976, for example, the House Foreign Affairs Subcommittee on International Security and Scientific Affairs held hearings on proposals to renounce the first use of nuclear weapons or a first strike, looking into the

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command or control system by which the President may exercise or delegate authority to order the use of nuclear weapons.

Floor debate on arms control measures and weapons procurement decisions, which may be televised, has also expanded public knowledge and discussion of the issues.

Oversight of Compliance

Congress has demonstrated an interest in the carrying out as well as the conclusion of arms control agreements.

As early as 1975 the Senate Armed Services Committee held hearings on alleged Soviet violations of the SALT I treaty, and the House Select Committee on Intelligence examined executive branch machinery to monitor arms control agreements. After a contempt-of-Congress citation was issued against Secretary of State Kissinger in an attempt to obtain information on Soviet compliance, additional information was supplied to the committees and Secretary Kissinger explained methods of verifying SALT compliance at a press conference.[14]

Subsequently, legislation has required various reports relating to compliance. The Arms Control and Disarmament Act requires the Director of ACDA to provide Congress, for each element of arms control proposals made by or to the United States, an assessment of the degree to which the proposal can be verified by existing national technical means, and, in the case of an agreement already in force, any alteration that may occur in the U.S. capacity to verify the agreement. It also requires an annual report on the adherence of the United States and other nations to arms control obligations. The Department of Defense Authorization Act, 1986, requires an annual report on the compliance of the Soviet Union with arms control commitments.[15]

Another instance of congressional oversight of a completed agreement has been in the field of nuclear nonproliferation. In addition to passing the Nuclear Non-Proliferation Act of 1978 and amending legislation to control proliferation better, the House Foreign Affairs and Senate Foreign Relations Committees held hearings or briefings in advance of the treaty review conferences held in 1980 and 1985.

Letters

Sometimes Congress, individual Members, or groups of Members have conveyed their views through letters to the President. On August 2, 1979, Senators Nunn, Tower, and Jackson wrote to President Carter expressing concern that a SALT agreement might create a euphoria that would militate against increased defense expenditures, indicating their support for treaty ratification would depend on raising levels of defense spending. Twelve other Senators wrote objecting to efforts to tie arms procurement to arms control.

In 1985 a bipartisan group of 100 Members of Congress wrote President Reagan urging him not to resume testing of an antisatel-

[14] Congress and Foreign Policy, 1975, p. 81.
[15] See chart of arms control reporting requirements in previous section.

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lite weapon and to negotiate a treaty to control antisatellite weapons.[16] Also in March 1985 23 Members wrote Soviet Chairman Mikhail Gorbachev stating that U.S. experts had concluded that the Soviet radar system being constructed at Krasnoyarsk, once operational, would violate the ABM treaty and urging that the Soviets must comply with existing arms control treaties or risk "the most serious consequences for the future of arms control." [17]

While the instruments discussed above by no means exhaust those available to Congress or individual Members or committees, they indicate the wide range of methods that Congress has used to try to influence arms control policy.

[16] New York Times, Mar. 1, 1985, p. 9.
[17] New York Times, Mar. 25, 1985, p. 1.

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V. COMPETING PERSPECTIVES ON ARMS CONTROL AND THE CONGRESSIONAL ROLE

In its approach to the strategic arms limitation talks since 1985 Congress has used a wide range of mechanisms to assure its involvement from the beginning of negotiations and to exercise influence on the outcome. It put sufficient pressure on the executive to gain appointment of a delegation of congressional observers from the outset. It initiated reporting requirements aimed at assuring a steady source of information and advance notification of certain actions. It linked procurement of important new weapons systems to arms control actions.

There are of course competing perspectives within Congress in arms control matters. Differences on the substantive merits of arms control assure that Congress will speak in multiple voices on U.S. action; indeed Congress becomes the arena where the differences are aired and sometimes resolved. In addition, differences exist on what is a responsible role for Congress. A main issue is how can Congress use military procurement decisions to influence executive branch arms control policy without damaging the U.S. position in the negotiations.

Differences on Arms Control Policy

A strong consensus on arms control policy seldom exists within Congress because basic differences of opinion exist on overall objectives, the levels and types of arms necessary for U.S. security, the desirability of arms control and its effect on national security, and the best way to promote whatever arms control is deemed desirable. These differences often reflect a fundamental difference in perceptions of the threat from the Soviet Union. One view emphasizes the aggressive nature of the Soviet Union and the need for the United States to maintain superiority in all weaponry. Another emphasize the dangers of an arms race and the mutual interest of the Soviet Union and the United States in avoiding destructive war by arms control.

One observer has described the basic question as the extent to which the United States should be flexible and accomodating toward the Soviet Union. He writes: [1]

> Those favoring relative inflexibility generally emphasize the zero-sum character of the relationship, support extensive military expenditures, and are dubious about the prospects and promise of arms control. Those who are inclined to greater flexibility stress the importance of avoiding nuclear conflict, tend to see military expenditures as contributing to a spiraling of defense spending, and view arms control as central to strategic policy.

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[1] Heginbotham, Stanley J. Constraining Salt II: The Role of the Senate. Prepared for delivery at the Jacob K. Javits Collection Inaugural Conference on Congress and the United States Foreign Policy: The Javits Years, 1946–1980. State University of New York, Stony Brook, Oct. 25, 1985.

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Another observer has categorized Members of Congress into three camps: (1) arms controllers who believe that some reasonable accord is preferable to an unconstrained arms race, (2) a "hard-line" faction who are irreconcilably opposed to dealing with the Soviet Union and very skeptical of arms control; and (3) a group of moderates who form the swing votes.[2]

The basic differences resurface time and again, although the size and power of groups vary, often according to where the President stands. Each new weapon system brings debate on whether its research and development, testing, production, and deployment will induce the Soviet Union to negotiate an arms control agreement, or whether it will be perceived as a threat and begin another spiral in the arms race, and whether it is needed for U.S. defense posture regardless of its arms control implications. Each arms control agreement brings debate on whether it will enhance or jeopardize U.S. security and on the adequacy of verification. When groups for and against weapon procurement decisions are closely matched, as in the MX decisions, it is often the moderate "swing" vote that determines the outcome.

Thus an important function of Congress in arms control is to serve as a balance wheel, keeping U.S. policy on the delicate course between military weakness and an uncontrolled arms race. Whatever the President's position on arms control, he will have a substantial number of like-minded supporters in Congress but not necessarily a majority. If it feels an administration goes too far in one direction or the other, the majority in Congress may use its weight to push arms control and national security policy back to what it sees as the proper course. Congress pushed the balance toward greater defense efforts in 1979, but it pushed for greater arms control efforts in 1983.

Divisions and a wide range of opinion on arms control issues exist in the executive branch and public as well as in Congress. But it is only in Congress that differences are both publicly aired and democratically resolved. In the executive branch the differences may not be discussed publicly unless they are "leaked", and the ultimate decision on a course of action may be made by one man, the President.

In the public the long-term differences may be thoroughly discussed but there is no method to resolve them except periodically through elections in which many issues are interwined. More often the differences in the public are channeled through individuals, interest groups and the news media to Congress where the issues can be publicly debated and brought to a vote.

The case of the nuclear freeze resolution illustrates the depth of division on arms control and the way that Congress serves as a channel for public discussion and resolution. Early in the 1980's a renewed awareness of the dangers of nuclear war bolstered a movement to freeze the nuclear arms race which quickly gained momentum throughout the United States. The freeze proposal called for the United States and the Soviet Union to negotiate a mutual and

[2] Flanagan, Stephen J. The Domestic Politics of SALT II: Implications for the Foreign Policy Process. In John Spanier and Joseph Nogee, Congress, the Presidency and American Foreign Policy. New York, Pergamon Press, 1983, p. 50.

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verifiable freeze on the testing, production, and deployment of nuclear weapons and delivery systems. Numerous freeze resolutions were passed at the local or State level, and freeze referendums were put on the ballot and passed by several States.

Aimed at changing current U.S. policy, the nuclear freeze movement found little sympathy in the executive branch. Most officials and many informed analysts viewed the proposal as naive or impractical. Congress, however, was expectably more responsive to these public expressions and fully examined the issues involved.

The freeze resolution was introduced in both Houses of Congress and was extensively debated in both 1982 and 1983. Some Members of Congress shared the view that a mutually agreed, verifiable freeze could be an important first step toward reducing nuclear arms. The House Foreign Affairs Committee reported in 1982:

> In short, the fact of nuclear parity makes a mutual and verifiable weapons freeze a workable and attractive proposal. Such a freeze will halt another round in the arms race, that would not benefit U.S. security.[3]

Opponents argued that a freeze at current levels would benefit the Soviet Union. Some promoted a substitute resolution to reduce strategic arms to equal levels prior to the freeze. A House Armed Services Subcommittee reported in 1983:

> Implementation of a freeze would threaten the stability of Europe and would cripple rather than advance United States arms control objectives. As a result, a freeze would enhance the chances of conventional or nuclear war rather than strengthen the chances for peace.[4]

In 1982 the House adopted a resolution urging the START negotiations to achieve "an equitable and verifiable" freeze "at equal and substantially reduced levels." [5] It defeated the concept of a negotiated freeze as an immediate objective in favor of a substitute, supported by the administration, calling for reductions first and then a freeze. The Senate did not vote on the resolution. Although the freeze proposal had garnered considerable support in Congress, a majority apparently had doubts about it or preferred other avenues toward arms control.[6]

In 1983 the House passed a resolution endorsing the concept of a freeze first to be followed by reductions, while the Senate tabled its freeze resolution.[7] The resolution in the House was so significantly amended, however, that some supporters of a freeze considered it a defeat, particularly after adoption of an amendment requiring suspension of a freeze agreement if it were not followed by mutual reductions within a specified period of time.

Some considered the House action wholly politically motivated and the debate hollow because of the probability that President Reagan would veto the resolution even if the Senate ever passed

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[3] U.S. Congress. House. Committee on Foreign Affairs. Calling for a Mutual and Verifiable Freeze on and Reductions in Nuclear Weapons. H. Rept. 97-640, July 19, 1982, p.6.

[4] U.S. Congress. House Committee on Armed Services. Procurement and Military Nuclear Systems Subcommittee. The Dicey Impact of a "Nuclear Freeze" on the Defense Posture of the Free World. Committee Print No. 3, Mar. 11, 1983, p. 4.

[5] H.J. Res. 521, adopted 273-125, Aug. 5, 1982, as amended by a substitute offered by Representative William Broomfield and others.

[6] Lowenthal, Mark. Congress and the Nuclear Freeze. In U.S. Congress. House. Committee on Foreign Affairs. Congress and Foreign Policy, 1982, p. 19.

[7] H.J. Res. 13, adopted 278-149, May 4, 1985, and S.J. Res. 2, tabled by a vote a 58-40, Oct. 31, 1983.

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it.[8] Nevertheless, the resolution was seriously debated at length in Congress, enabling Members and the public to gain greater understanding of the U.S. strategic arms and arms control policy involved. Moreover, the strong popular concern reflected in the debate gave a new impetus to the Strategic Arms Reduction Talks.

Differences on Congressional Role

Competing perspectives on the proper role of Congress in arms control policy stem from the Constitution's division of the foreign policy powers between the President and Congress, long recognized as "an invitation to struggle for the privilege of directing American foreign policy." [9] Depending on whether they agree with the policy being followed by the administration in power, however, Members of Congress are apt to have different perspectives of the congressional role from time to time.

Some Members of Congress would leave arms control policy and negotiations to the President, although keeping informed in order to pass judgment on completed agreements. They contend it is not responsible for Congress to use arms procurement decisions as leverage against the administration because it makes it harder for the President to bargain with the Soviet Union and may place unilateral restraints on the United States without a quid pro quo from the Soviet Union. Under President Reagan, defense-oriented Members have often held this perspective.

Other Members hold that Congress should play a role in shaping arms control agreements to avoid later being confronted with a completed arms control agreement that Congress does not like but would hesitate to reject. They would use funding decisions on weapon systems to promote arms control because they find it a most effective tool for getting the administration to pay attention to congressional views. Under President Reagan, Members who have wanted more movement toward arms control have often held this perspective.

Despite differences in perspective, in seeking to play a responsible role Members of Congress have often responded to requests from the executive branch not to take actions that might damage current negotiating prospects. Recently such a plea was made in a letter from Secretary of State Shultz to Speaker of the House Thomas O'Neill urging postponement, while the strategic arms talks were underway, of floor action on a joint resolution urging negotiations on a comprehensive test ban which the administration opposed. The Secretary wrote, "During this delicate period, it is especially important that Congress and the Administration show unity to the maximum extent possible and that we give the Soviets no opportunities for exploiting domestic political debate and thereby delaying progress in arms control and the positive development of relations between our two countries." [10] After that round of ne-

[8] Garfinkle, Adam M. The Politics of the Nuclear Freeze. Philadelphia, Foreign Policy Research Institute, 1984, 258 pp.
[9] Corwin, Edward S. The President: Office and Powers. New York, New York University Press, 1957, p. 17.
[10] Congressional Quarterly, Oct. 5, 1985, p. 1995.

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gotiations and the summit conference in November 1985, however, the House passed the resolution.[11]

Similarly, on October 30, 1985, the House first adopted and then rejected an amendment to strike out of the defense appropriation of $1.7 billion for MX missile procurement. It reversed itself after consideration of complaints from the White House that the refusal to provide funds would damage the President's arms control position in the forthcoming summit conference.

One writer established the following criteria for "meaningful congressional involvement" in arms control.[12]

—Did Congress keep itself informed about and press administration officials to explain the executive branch's proposed policies?

—Did Congress question and debate the executive branch's goals and the bases underlying the goals?

—Did Congress, in considering the executive branch's proposed initiatives, build public understanding of the policy issues involved?

—Did Congress develop and consider alternatives to administration policies?

—Did Congress participate in setting the general direction of policy, leaving the day-to-day management of policy to the executive?

—Did Congress hold executive branch officials accountable for their stewardship?

To these might be added: Did Congress serve as a balance wheel and help keep the United States on the delicate course between military weakness and an uncontrolled arms race?

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[11] H.J. Res. 3, adopted 268–148, Feb. 26, 1986.
[12] Platt, The U.S. Senate and Strategic Arms Policy, p. 4.

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